IN THE HIGH COURT OF BOMBAY AT GOA
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CRIMINAL WRIT PETITION NO. 38 OF 2002

Caetano Fernandes,
prisoner serving
sentence in Central
Jail, Aguada, Goa. ... Petitioner

Versus

1. State of Goa, through
Chief Secretary,
Panaji, Goa,

2. Inspector General of
Prisons, Collectorate
North Goa, Panaji, and

3. Superintendent of
Police, North Goa, Panaji. ... Respondents.

Smt. Asha Desai, advocate for the petitioner.

Shri A. P. Lawande, Public Prosecutor for the State.

CORAM: P. V. KAKADE, J.

DATE: 21st November 2002.

ORAL ORDER

Heard learned counsel for both the sides.

On insistence of the prisoner/ petitioner he was submitted to medical examination by a doctor practising Ayurvedic medicine and the report of the said Doctor of the choice of the petitioner is on record, wherein he has expressed that he would be in a position to give treatment to the prisoner/petitioner to his satisfaction and reasonably feels that the ailment which is suffered by the petitioner can be contained by Ayurvedic treatment. The learned counsel for the petitioner today further submitted that the prisoner/petitioner has never

undergone allopathic treatment and insists that he should be give an opportunity to avail of the Ayurvedic treatment of Dr. A. K. Biswas of Mapusa, Goa, whose report is received after examination of the patient.

2. In my considered view, taking into account the report of Dr. Biswas and the insistence of of the petitioner, there should not be any difficulty in issuing directions to the jail authorities to submit the petitioner/patient to the treatment of Dr.A.K. Biswas on the basis of his report dated 26th October, 2002. However, it would be made clear that the cost as well as the consequences of the treatment received at the hands of the said Ayurvedic medical practitioner, shall be entirely borne by the petitioner/patient and the State Government shall not be responsible in any manner whatsoever if the said treatment fails.

3. Hence, the respondents are directed to make available the medical treatment of Dr. A. K. Biswas of Mapusa, Goa, to the petitioner/patient at the petitioner's cost and responsibility for the consequences which would follow, immediately and, at any rate, within two weeks from the date of this Order. With these directions the petition stands disposed of. It is clarified that if the petitioner is required to be taken to the Hospital of the concerned medical practitioner

everyday, the transport charges also would be borne by the petitioner. However, if he has to be admitted in the concerned hospital for the purposes of medical treatment, then transport charges will be according to the rules of the jail.

P. V. KAKADE, J.

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